

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

NATALIE J. VIDRA-MILLER, on behalf of
herself and all others similarly situated,
Plaintiff,

vs.

MIDLAND CREDIT MANAGEMENT

and

MIDLAND FUNDING LLC

Defendants.

NO. 2:13-cv-01847(JS)

CLASS ACTION

ORDER GRANTING STAY

AND NOW, this day of , 2013, upon consideration of Plaintiff's Motion for Stay (Doc. No. ____), and any opposition thereto, the Court finds that it would be in the best interest of the parties and of judicial economy for a temporary stay of the proceedings pending a decision of the Court of Appeal for the Third Circuit in *Douglass v. Convergent*, U.S.C.A. No. 13-3588. It is therefore ORDERED that the within matter shall be stayed pending the outcome of the appeal in the *Douglass* matter. Counsel for Plaintiff shall promptly notify this Court of the disposition of the *Douglass* appeal when that appeal is concluded.

The instant stay is without prejudice to the rights or position of Plaintiff Vidra-Miller and of the putative class, and Defendant Midland. The dates previously provided by this Court's Scheduling Order (Doc. No. 16) are suspended pending further Order of the Court. The Clerk is directed to place this matter in civil suspense.

U.S.D.J.

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

NATALIE J. VIDRA-MILLER, on behalf of
herself and all others similarly situated,
Plaintiff,

vs.

MIDLAND CREDIT MANAGEMENT

and

MIDLAND FUNDING LLC

Defendants.

NO. 2:13-cv-01847(JS)

CLASS ACTION

PLAINTIFF'S MOTION FOR STAY

Plaintiff, Natalie J. Vidra-Miller moves the Court for an Order staying the within matter pending appeal in a matter raising the substantially identical issue of first impression. In support thereof, Plaintiff avers as follows:

1. This is a putative class action arising under the Fair Debt Collection Practices Act subchapter of the Consumer Credit Protection Act, 15 U.S.C. § 1692.

2. Plaintiff Natalie J. Vidra-Miller alleges that Defendant Midland has violated the provisions of the Act at 15 U.S.C. § 1692f(8) by including extraneous matter through the glassine window of collection correspondence. Particularly, Vidra-Miller complains about Midland's placement of her account number visibly through the envelope window.

3. It bears note that Defendant Midland previously moved to stay the matter as an alternative remedy to its Motion for Judgment on the Pleadings (Doc. No. 10). At that time, some three months ago, Plaintiff opposed the request for stay because the request was based on the pendency of *Waldron v. Professional Management*, U.S.C.A. No. 13-2044. *Waldron* involved the use of QR Codes only and did not allege violation of the Act by the presence of the account number

stated in the window envelope. Therefore, Plaintiff did not believe a stay was appropriate because a decision in *Waldron* would not necessarily be dispositive of, indeed might not have even addressed, the issue of a visible account number upon which this Vidra-Miller claim is based.

4. The *Waldron* appeal has since been discontinued.

5. Further, on August 6, 2013, Judge Slomsky of this Court granted summary judgment for the Defendant in *Douglass v. Convergent*, U.S.D.C. E.D. Pa. Civil Action No. 12-1524. The decision on summary judgment is unpublished but is reported at 2013 WL 3993595 (E.D. Pa. Aug. 6, 2013). *Douglass* is on appeal to the Third Circuit.

6. *Douglass* does squarely raise the issue presented in this case, *i.e.*, the presence of the account number visible through the window envelope as violative of § 1692f(8).

7. Therefore, circumstances are changed since this Court earlier entertained the (defense) application for a stay. Specifically:

(a) another Judge of this Court has found no violation in the presence of the account number in a decision that came down *after* the earlier stay application was denied in this case; and

(b) the *Douglass* decision is on appeal to the Third Circuit and it is expected that appeal will be dispositive of the issue here in Vidra-Miller.

8. Counsel have conferred and I am advised that Defendants do not oppose a stay.

WHEREFORE, Plaintiff, Natalie J. Vidra-Miller respectfully requests that this Honorable Court grant her Motion for Stay of the proceedings.

Respectfully submitted:

Date: 10/01/13

/s/ Cary L. Flitter
CARY L. FLITTER
THEODORE E. LORENZ
ANDREW M. MILZ

FLITTER LORENZ, P.C.
450 N. Narberth Avenue, Suite 101
Narberth, PA 19072
(610) 822-0782

Attorneys for Plaintiff

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

NATALIE J. VIDRA-MILLER, on behalf of
herself and all others similarly situated,
Plaintiff,

vs.

MIDLAND CREDIT MANAGEMENT

and

MIDLAND FUNDING LLC

Defendants.

NO. 2:13-cv-01847(JS)

CLASS ACTION

CERTIFICATION IN LIEU OF BRIEF

I, CARY L. FLITTER, counsel for the Plaintiff Vidra-Miller certify that the within Motion involves an uncomplicated discretionary issue addressed to this Court's management of its docket only. A temporary stay is obviously within the inherent discretionary power of the Court to be permitted under proper circumstances. *See e.g., Arkema, Inc. v. Honeywell Intern., Inc.*, 2013 WL 5356844 (E.D. Pa. Sept. 25, 2013). Therefore, I submit that no brief is due to be submitted.

Respectfully submitted:

Date: 10/01/13

/s/ Cary L. Flitter
CARY L. FLITTER
THEODORE E. LORENZ
ANDREW M. MILZ

FLITTER LORENZ, P.C.
450 N. Narberth Avenue, Suite 101
Narberth, PA 19072
(610) 822-0782

Attorneys for Plaintiff

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

NATALIE J. VIDRA-MILLER, on behalf of
herself and all others similarly situated,
Plaintiff,

vs.

MIDLAND CREDIT MANAGEMENT

and

MIDLAND FUNDING LLC

Defendants.

NO. 2:13-cv-01847(JS)

CLASS ACTION

CERTIFICATE OF SERVICE

I hereby certify that on October 1, 2013, I have electronically filed the foregoing with the Clerk of Court using the CM/ECF system which sent notification of such filing to:

Andrew M. Schwartz
Marshall, Dennehey, Warner, Coleman & Goggin, P.C.
2000 Market Street
Suite 2300
Philadelphia, PA 19103-4797
Attorneys for Defendant

Said document is available for viewing and downloading from the ECF system.

Date: 10/1/13

/s/ Cary L. Flitter

CARY L. FLITTER
Attorney for Plaintiff